

## Message Text

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PAGE 01 STATE 017954  
ORIGIN L-03

INFO OCT-01 AS-01 AF-08 ARA-06 EUR-12 EA-07 NEA-10 IO-13  
ISO-00 AID-05 CIAE-00 COME-00 EB-08 FRB-03 INR-07  
NSAE-00 USIA-06 TRSE-00 XMB-02 OPIC-03 SP-02 CIEP-01  
LAB-04 SIL-01 OMB-01 SIG-01 NSC-05 SS-15 STR-04  
CEA-01 DODE-00 PA-01 PRS-01 H-01 /133 R

DRAFTED BY L/EB:SEBENSON  
APPROVED BY EB/IFD/OIA:RJSMITH  
IO:RPOOLE  
TRSY:JNEIHUSS  
AF/EPS:LMWHITE  
EUR/RPE:RGELBARD  
ARA/MEX:GFALK  
ARA/AND:FDEVINE  
EA/EP:DBOERIGTER  
NEA:AGRIFFIN (SUBS)

-----270350Z 058418 /72-61

P 262256Z JAN 77  
FM SECSTATE WASHDC  
TO AMEMBASSY BRUSSELS PRIORITY  
AMEMBASSY THE HAGUE PRIORITY  
AMEMBASSY LONDON PRIORITY  
AMEMBASSY PARIS PRIORITY  
AMEMBASSY OSLO PRIORITY  
AMEMBASSY BONN PRIORITY  
AMEMBASSY ROME PRIORITY  
AMEMBASSY TOKYO PRIORITY  
AMEMBASSY OTTAWA PRIORITY  
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AMEMBASSY BOGOTA PRIORITY  
AMEMBASSY CARACAS PRIORITY  
AMEMBASSY FREETOWN PRIORITY  
AMEMBASSY ISLAMABAD PRIORITY  
AMEMBASSY KINSHASA PRIORITY  
AMEMBASSY LAGOS PRIORITY  
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PAGE 02 STATE 017954

AMEMBASSY MEXICO PRIORITY  
INFO USMISSION USUN NEW YORK PRIORITY  
USMISSION OECD PARIS PRIORITY  
USMISSION EC BRUSSELS PRIORITY

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E.O. 11652: N/A

TAGS: ECOSOC, EGEN, EINV

SUBJECT: ECOSOC WORKING GROUP ON ILLICIT PAYMENTS -  
SECOND SESSION

REF: (A) STATE 267952; (B) STATE 196622; (C) STATE 184175;  
(D) STATE 179170

1. AS INDICATED IN REFTEL A, ECOSOC AD HOC INTERGOVERNMENTAL WORKING GROUP ON CORRUPT PRACTICES WILL HOLD ITS FIRST SUBSTANTIVE MEETING JANUARY 31 TO FEBRUARY 11, 1977.

2. FIRST MEETING OF THE GROUP IN NOVEMBER 1976 WAS LARGELY PROCEDURAL BUT U.S. CIRCULATED ITS "PRELIMINARY IDEAS" ON AN ILLICIT PAYMENTS TREATY. A SUMMARY FOLLOWS:

THE U.S. "IDEAS" FOR A TREATY ARE AIMED AT DETERRING BRIBERY AND EXTORTION INVOLVING PUBLIC OFFICIALS. NEARLY ALL COUNTRIES HAVE LEGISLATION PROHIBITING BRIBERY, BUT MEASURES OF INTERNATIONAL COOPERATION ARE NECESSARY TO HELP MAKE THESE LAWS EFFECTIVE. INTERNATIONAL COOPERATION IN THE FIELD OF CRIMINAL LAW CAN BEST BE EFFECTED BY A MULTILATERAL TREATY TO BE IMPLEMENTED BY NATIONAL LEGISLATION. A TREATY FOR THIS PURPOSE COULD BE BASED ON THE FOLLOWING

CONCEPTS:  
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PAGE 03 STATE 017954

(1) ENFORCEMENT OF THE BRIBERY LAWS OF HOST (AND IMPORTING) COUNTRIES;

(2) COOPERATION BY ALL CONTRACTING STATES IN THE INVESTIGATION AND PROSECUTION OF OFFENDERS INCLUDING THE EXCHANGE OF RELEVANT INFORMATION BY THE LAW ENFORCEMENT AUTHORITIES OF THE CONTRACTING STATES;

(3) UNIFORM DISCLOSURE LEGISLATION BY ALL CONTRACTING STATES AS PRESCRIBED BY THE TREATY. UNDER THIS LEGISLATION, ENTERPRISES WOULD BE REQUIRED TO REPORT AGENTS' FEES AND OTHER PAYMENTS MADE TO PUBLIC OFFICIALS OR TO INTERMEDIARIES TO SECURE AN INTERNATIONAL COMMERCIAL TRANSACTION WITH A GOVERNMENT AGENCY OR TO INFLUENCE THE PERFORMANCE OF AN OFFICIAL ACT, REGARDLESS OF THE LEGALITY OR THE PROPRIETY OF THE PAYMENT. THESE REPORTS WOULD BE MADE TO BOTH HOME AND HOST GOVERNMENTS AND WOULD BE AVAILABLE TO THE PUBLIC. FALSE REPORTING OR FAILURE TO

REPORT WOULD BE PUNISHED UNDER THE CRIMINAL LAWS OF THE CONTRACTING STATES. TO AVOID BURDENSOME ADMINISTRATION, NO REPORTS WOULD BE REQUIRED IN RESPECT OF SMALL INTERNATIONAL TRANSACTIONS OR OF SMALL PAYMENTS.

3. NEW U.S. ADMINISTRATION IS ACTIVELY STUDYING ITS OPTIONS FOR BOTH DOMESTIC AND INTERNATIONAL ACTION TO DETER BRIBERY IN INTERNATIONAL TRANSACTIONS. ALTHOUGH NO DECISIONS HAVE BEEN MADE, U.S. DELEGATION TO WORKING GROUP MEETING IS BEING INSTRUCTED TO REAFFIRM U.S. POLICY IN FAVOR OF INTERNATIONAL ACTION AND TO CONTINUE TO TAKE THE INITIATIVE IN THIS MATTER. U.S. DEL IS ALSO BEING INSTRUCTED TO FORMALLY TABLE FOR DISCUSSION THE PROPOSALS CIRCULATED BY THE U.S. AT NOVEMBER MEETING.

4. EMBASSIES ARE REQUESTED TO MEET WITH APPROPRIATE OFFICIALS TO REAFFIRM U.S. INTEREST IN AN INTERNATIONAL LIMITED OFFICIAL USE

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PAGE 04 STATE 017954

AGREEMENT ON ILLICIT PAYMENTS AND ANNOUNCE U.S. INTENTION TO PRESENT ITS PROPOSALS FOR CONSIDERATION. IN DOING SO, EMBASSIES MAY WISH TO REVIEW THE ARGUMENTS IN FAVOR OF AN AGREEMENT, DRAWING ON REFTEL D.

5. IN ADDITION, IT IS IMPORTANT THAT U.S. KNOW INTENTIONS OF GOVERNMENTS INVOLVED WITH RESPECT TO JANUARY 31 MEETING. SPECIFICALLY, WE WOULD LIKE TO KNOW (A) WHAT IF ANY THOUGHTS GOVERNMENTS HAVE ON THE DESIRABILITY AND SUBSTANCE OF AN ILLICIT PAYMENTS TREATY, AND (B) WHO WILL BE THEIR DELEGATES. IN DISCUSSIONS, EMBASSY OFFICIALS MAY INDICATE THAT WHILE U.S. IS PROPOSING A TREATY BASED

ON UNIFORM DISCLOSURE LAWS AND COOPERATION IN ENFORCEMENT, IT IS RECEPTIVE TO OTHER IDEAS REGARDING ILLICIT PAYMENTS. U.S. REMAINS OF THE VIEW, HOWEVER, THAT A TREATY SHOULD BE LIMITED TO "CORRUPT" PAYMENTS, I.E. BRIBERY AND THE CONTROL THEREOF, AS SPECIFIED IN THE MANDATE OF THE WORKING GROUP CONTAINED IN ECOSOC RESOLUTION 2041 (QUOTED IN REFTEL B).  
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## Message Attributes

**Automatic Decaptioning:** X  
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**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
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**Disposition Approved on Date:**  
**Disposition Case Number:** n/a  
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**Disposition Date:** 22 May 2009  
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**Disposition History:** n/a  
**Disposition Reason:**  
**Disposition Remarks:**  
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**Document Unique ID:** 00  
**Drafter:** SEBENSON  
**Enclosure:** n/a  
**Executive Order:** N/A  
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**Original Previous Classification:** n/a  
**Original Previous Handling Restrictions:** n/a  
**Page Count:** 3  
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**Previous Classification:** LIMITED OFFICIAL USE  
**Previous Handling Restrictions:** n/a  
**Reference:** 77 STATE 267952, 77 STATE 196622, 77 STATE 184175, 77 STATE 179170  
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**Review Exemptions:** n/a  
**Review Media Identifier:**  
**Review Release Date:** n/a  
**Review Release Event:** n/a  
**Review Transfer Date:**  
**Review Withdrawn Fields:** n/a  
**SAS ID:** 3492251  
**Secure:** OPEN  
**Status:** NATIVE  
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**TAGS:** EGEN, EINV, ECOSOC  
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**Review Markings:**  
Margaret P. Grafeld  
Declassified/Released  
US Department of State  
EO Systematic Review  
22 May 2009  
**Markings:** Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009